IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

ARBITRATION PETITION NO. 22 OF 2006

1. Smt. Shalinitai Vasantrao Patil and 5 ors. ..Petitioners

Vs.

1. Smt. Lilabai Laxman alias Manohar Mali and ors. ..Respondents

Mr. Sachin Sangare h/f Mr. Rajeev Matkar for petitioners.
Mr. R.V. More for respondent nos.1 to 4.

CORAM: B.H. MARLAPALLE, J.

Date : July 14, 2006.

P.C.:

1. Heard Mr. Sangare holding for Mr.Matkar the learned counsel for the petitioners and Mr.More the learned counsel for the respondent nos.1 to 4.

2. The petitioners and Shri Ambaji Narsinga Mali had formed a partnership firm in the name and style as "M/s. Rajesh Enterprises" and it was registered under the Registration No.B-176368 on 22/9/1982. The Deed of Partnership was executed on 26/3/1982. However, due to some disputes the partnership came to be dissolved by a Desolution Deed dated 17/10/1984. Thereafter Sangli Bank Limited which had advanced loan

to the partnership firm filed Special Civil Suit No.81 of 1985 against all the partners of M/s.Rajesh Enterprises and the suit was decreed on 15/4/1989. The defendants were directed to pay jointly and severally an amount of Rs.6,88,086.95 with interest @ 17.50% p.a.

3. This Arbitration Petition has been moved by relying upon the clause of the Deed of Partnership dated 26/3/1982 and contended that the disputes between the partners arising from the said partnership deed were required to be referred to arbitration under Clause 25 therein. The record shows that this petition has been filed on or about 15/3/2005 and the partnership was dissolved on 17/10/1984 i.e. about 21 years prior to filing of the petition. The respondents have filed affidavit in reply and contended that the petition is misconceived and the same is required to be dismissed on the grounds that the partnership deed cannot be relied upon now after the partnership was dissolved and the Arbitration Petition is hopelessly time barred.

4. There is no doubt that so far as the decree of

the trial court is concerned, execution proceedings before the Debt Recovery Tribunal at Pune are pending and on the demise of Shri Ambaji Narsinga Mali the present respondents have been brought on record as his LRs. The execution proceedings will be continued and decided as per the terms of the decree. This recovery of the decreetal amount, as directed by the competent court, cannot be a subject matter for claims to be referred for arbitration amongst the partners inter se by relying upon the partnership deed and after the partnership was dissolved in October, 1984. In addition, it is also admitted that the decree was passed on 15/4/1989 and the said disputes arising from that decree is sought to be referred now for arbitration after about 16 years. The respondents are, therefore, right in their contentions that the claims sought to be referred for arbitration are dead claims.

5. Hence the petition is rejected summarily.

(B.H. Marlapalle,J.)